

APPEAL NO. 020225
FILED MARCH 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 24, 2001, and December 14, 2001. Regarding case number (1), the hearing officer determined (1) that the appellant (claimant) fell on _____, but she did not sustain a new injury to or aggravate her right upper extremity; and (2) that respondent 2, (carrier 2), is not relieved of liability under its agreement to accept left and right carpal tunnel syndrome due to claimant's 1996 injury. Regarding case number (2), the hearing officer determined that the _____, compensable injury accepted by respondent 1, (carrier 1), does not extend to include "an injury to [claimant's] right carpal tunnel or right cubital tunnel." The claimant appealed only the determination regarding the extent of the _____, compensable injury on sufficiency grounds. Carrier 1 responded, urging affirmance. The file does not contain a response from carrier 2. In addition, carrier 2 did not appeal the determination that it is not relieved of liability under its agreement relating to the 1996 injury.

DECISION

Affirmed.

As noted above, carrier 1 accepted a cervical and right shoulder injury from the claimant's _____, fall at work. The hearing officer did not err in determining that the claimant's compensable injury of that date did not extend to her right upper extremity, specifically "an injury to her right carpal tunnel or right cubital tunnel." Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the hearing officer, as the finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. As the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). When reviewing a hearing officer's decision for sufficiency of the evidence, we will not reverse such decision unless it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). In this instance, there was conflicting evidence on the issue of whether the claimant's _____, injury extended to right carpal tunnel and right cubital tunnel injuries. The hearing officer resolved that conflict against the claimant and he was acting within his province as the fact finder in so doing. Nothing in our review of the record demonstrates that the challenged extent-of-injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to disturb that determination on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of insurance carrier 1 is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

The true corporate name of insurance carrier 2 is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**BOB TALLEY
PARAGON CENTER ONE
450 GEARS ROAD, SUITE 400
HOUSTON, TEXAS 77067.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge